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In re Application of MÜSSIG :
U.S. Application No.: 10/574,028 :
PCT Application No.: PCT/EP2004/052213 :
Int. Filing Date: 16 September 2004 : DECISION
Priority Date Claimed: 14 October 2003 :
Attorney Docket No.: 101769-354 KGB :
For: HEAVILY FILLED HALOGEN-FREE :
FLAME-RESISTANT WRAPPING FOIL :

This is in response to applicant's "Preliminary Amendment and Response to Notification of Missing Requirements" filed 09 February 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 September 2004, applicant filed international application PCT/EP2004/052213, which claimed priority of an earlier Germany application filed 14 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 28 April 2005. The thirty-month period for paying the basic national fee in the United States expired on 14 April 2006.

On 23 March 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and an English translation of the international application must be filed.

On 09 February 2007, applicant filed the present petition under 37 CFR 1.181.

On 21 March 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916).

On 20 April 2007, applicant filed an executed declaration and a copy of the English translation of the international application.

DISCUSSION

The evidence of record is sufficient to establish that the English translation of the international application was originally filed on 23 March 2006. Specifically, the copy of the return postcard, which includes the English translation of the international application in its itemized contents and which bears a USPTO date stamp of 23 March 2006, serves as *prima facie* evidence that the English translation of the international application was received by the USPTO on 23 March 2006.

The \$130.00 fee for filing a late English translation will be refunded to Deposit Account No. 14-1263.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The portion of the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 10 October 2006 which required submission of an English translation of the international application is hereby VACATED.

The portion of the Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 March 2007 which required submission of an English translation of the international application is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 April 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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